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| MARTIN & FERRARO, LLP 1557 LAKE O'PINES STREET, NE HARTVILLE, OH 44632 | | | AKINTOLA, OLABODE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3624 | |

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,107

Applicant(s)

HEADINGS ET AL.

Examiner

Olabode Akintola

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-27 and 32-37 is/are pending in the application.
- 4a) Of the above claim(s) 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-14, 19-27 and 32-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/26/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to applicant's communication filed on January 26, 2006. Claims 7-27, 32-37 pending in the application are subjection to restriction/election as discussed below.

After a phone call on May 22, 2006, a provisional election was made by Mr. Amedeo Ferraro (Attorney for the Applicants) to prosecute claims 7-14, 19-27, 32-37. Accordingly claims 15-18 are withdrawn from consideration as being directed to non-elected invention. Applicant is respectfully requested to cancel the withdrawn non-elected claims 15-18 of invention II in response to this office action. Claims 17-27, 32-37 have been examined. The restriction/election and rejections are stated below.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Invention I: Claims 7-14, 19-27, 32-37 are drawn to a system for selectively restricting access to content by main account and sub-accounts.

Invention II: Claims 15-18 are drawn to system for placing account holder as members of a group of account holders sharing at least one characteristic.

3. The inventions I and II are distinct, each from the other because of the following reasons:

Inventions I and II are related as sub combinations disclosed as usable together in a single combination. The sub combinations are distinct from each other if they are shown to be separately usable.

In the instant case, invention I relates to a system for selectively restricting access to content by main account and sub-accounts, whereas invention II relates to system for placing account holder as members of a group of account holders sharing at least one characteristic. The system of invention I can be performed by a system configuration different from what is claimed in invention II. Hence invention I has a different utility and scope than invention II. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

After a phone call on May 22, 2006, a provisional election was made by Mr. Amedeo Ferraro (Attorney for the Applicants) to prosecute claims 7-14, 19-27, 32-37

Accordingly claims 15-18 are withdrawn from consideration as being directed to non-elected invention. Applicant is respectfully requested to cancel the withdrawn non-elected claims 15-18 of invention II in response to this office action.

Objection to Specification

4. The amendment filed 01/26/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: “sub-accounts not being limited to a subset of the controlled access to the digital media content of said main account” and “sub-account to have greater access to the digital media content than the main account”.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7-14, 19-27 and 32-37 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, claims 1 and 19 teach “sub-accounts not being limited to a subset of the controlled access to the digital media content of said main account”; claim 36 teaches sub-account to have greater access to the digital media content than the main account”. These two steps are not supported/disclosed in the specification.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7-14, 19-27 rejected under 35 U.S.C. 102(e) as being anticipated by Goode et al. (U.S. Patent No. 6163272) (hereinafter referred to as Goode).

Re Claim 7, 19, 36 and 37: Goode teaches a system for controlling access to digital media content by a user, the system comprising: a database for storing main accounts and sub-accounts required to access the digital media content, at least one of said main accounts being linked to at least one of said sub-accounts (col. 5, lines 59-64); and a computer processor programmed to selectively restrict access to the digital media content by said main accounts and said sub-accounts (col. 2, lines 60-63), said computer processor being programmed to permit at least one of said main accounts to control access to the digital media content available to said main account and one or more sub-accounts associated with said main account (col. 5, lines 36-49), the controlled access to the digital media content of said one or more associated sub-accounts not being limited to a subset of the controlled access to the digital media content of said main account (col. 2, lines 60-63).

Re Claims 8, 23, 24 and 32: Goode teaches the step wherein said processor restricts access to the digital media content according to selected spending limits; wherein said spending limit is imposed on a time-based value (col. 2, lines 61-63).

Re Claim 9 and 33: Goode teaches the step wherein said processor restricts access to the digital media content according to a type of content; wherein the type of content is based on a genre of at least one of video and audio media (col. 2, lines 21-23 and col. 5, lines 27-30).

Re Claim 10 and 26: Goode teaches the step wherein said processor restricts access to the digital media content in accordance with a rating system (col. 2, lines 56-60).

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Re Claim 11 and 25: Goode teaches the step wherein said processor restricts access to the digital media content according to viewing times (col. 2, lines 56-60).

Re Claim 12 and 21: Goode teaches the step wherein said processor is programmed to permit an account holder of one of the accounts to selectively restrict access to the sub-accounts linked to the account (col. 5, line 59- col. 6, line 6).

Re Claim 11, 34 and 35: Goode teaches step wherein the digital media content is offered though a subscription service, one of said account holders being a subscriber to said subscription service; wherein the subscriber is a commercial entity (col. 4, lines 17-19).

Re Claim 20: Goode teaches the step wherein said step of imposing restrictions includes the sub-step of imposing restrictions selectively among the primary account and the sub-account (col. 2, lines 15-23).

Re claim 22: Goode teaches the step of obtaining information about the sub-account holder (col. 5, lines 41-49)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 13, 14 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (U.S. Patent No. 6163272) in view of Lotvin et al. (U. S. Patent No. 6178407) (hereinafter referred to as Lotvin).

Re claims 13, 14 and 27: Goode is as discussed above. Goode does not explicitly teach the steps wherein said processor is adapted to generate a report of the spending habits of the viewers using the accounts and wherein said processor is adapted to generate a report of the viewing habits of the viewers using the accounts. Lotvin teaches steps wherein said processor is adapted to generate a report of the spending habits of the viewers using the accounts and wherein said processor is adapted to generate a report of the viewing habits of the viewers using the accounts (col. 9, lines 5-21). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goode to include the steps wherein said processor is adapted to generate a report of the spending habits of the viewers using the accounts and wherein said processor is adapted to generate a report of the viewing habits of the viewers using the accounts as taught by Lotvin so that such report can be analyzed for statistical purposes.

Response to Arguments

Applicant's arguments with respect to claims 7-14 and 19-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA


HANI M. KAZIMI
PRIMARY EXAMINER